

Statutes and Ordinances

Governing Boston's Operating and Capital Budgets

This section summarizes key Massachusetts laws and City ordinances affecting Boston's operating budget development and its subsequent expenditure. The section also covers significant laws and ordinances governing general obligation loan authorization. Although the material is not all-inclusive, it covers the more important laws guiding the budget process.

In addition to the statutes and ordinances, other budget-related directives are in various mayoral Executive Orders and in the policies and administrative guidelines issued by the Office of Budget Management.

For understanding Boston's operating budget, the most important pieces of legislation are Chapter 190 of the Acts of 1982, commonly referred to as the Tregor legislation, and Chapter 701 of the Acts of 1986, known as the Tregor Amendments.

Annual Appropriation Process

Section 15 of Chapter 190 of the Acts of 1982, as amended by Section 2 of Chapter 701 of the Acts of 1986, states that "all appropriations, excepting those for school purposes, to be met from taxes, revenue or any source other than loans, shall originate with the mayor. The mayor, not later than the second Wednesday in April of each year, shall submit to the city council the annual budget of the current expenses of the city and county for the forthcoming fiscal year....

"The city council may reduce or reject any item but, except upon the recommendation of the mayor, shall not increase any item in, nor the total of, a budget nor add any item thereto, nor shall it originate a budget.

"Not later than the second Wednesday in June, the city council shall take definite action on the annual budget by adopting, reducing or rejecting it, and in the event of their failure to do so, the items and the appropriation orders in the budget as recommended by the mayor shall be in effect as

if formally adopted by the city council...

"The city council shall take definite action on any supplementary appropriation order and any order for a transfer of appropriations by adopting, reducing or rejecting it within sixty days after it is filed with the city clerk..."

School Department Budget Process

Section 6 of Chapter 70 of the Massachusetts General Laws states that "in addition to amounts appropriated for long-term debt service, school lunches, adult education, student transportation, and tuition revenue, each municipality in the commonwealth shall annually appropriate for the support of public schools in the municipality and in any region school district to which the municipality belongs an amount equal to not less than the sum of the minimum required local contribution, federal impact aid, and all state school aid and grants for education but not including equity aid, for the fiscal year...the commissioner (of the Department of Education) shall estimate and report such amounts to each municipality and region school district as early as possible, but no later than March first for the following fiscal year."

Section 2 of Chapter 224 of the Acts of 1936, as amended by Chapter 613 of the Acts of 1987, further states that "(a) In acting on appropriations for educational costs, the city council shall vote on the total amount of the appropriations requested by the mayor, but neither the mayor nor the city council shall allocate appropriations among accounts or place any restriction on such appropriations. The appropriation of said city shall establish the total appropriation for the support of the public schools, but may not limit the authority of the school committee to determine expenditures within the total appropriation; provided, however, that if the city auditor determines that school department expenditures in any fiscal year are projected to be

in excess of total budgeted expenditures for that fiscal year, as supported by appropriation and other available funding, then the school committee shall not reallocate or transfer funds from any item in the budget for that fiscal year to fund any such projected additional expenditures.

“(b) After the fourth Wednesday of March of any fiscal year, the school committee shall not initiate or authorize any new or additional programs or categories of expenditures requiring additional unbudgeted expenditures unless such programs or categories have been incorporated and fully funded in the budget for the subsequent fiscal year. If such programs or categories have not been incorporated and fully funded in the budget for the subsequent fiscal year, they shall not be initiated or authorized until the school committee shall have amended its budget submission for the subsequent fiscal year to reduce or eliminate other costs, programs or categories in amounts equal to the projected annualized costs of the new or additional programs or categories of expenditures.

“(c) The superintendent of schools shall prepare and submit to the school committee, the city auditor and the city office of budget management, a monthly budget update report which shall detail and itemize year-to-date and projected school department expenditures and budget transfers.”

School Department Financial Affairs

Section 1B of Chapter 231 of the Acts of 1906, as amended by Chapter 613 of the Acts of 1987, notes that “the school committee may delegate, in whole or in part, to the superintendent of schools the authority to approve for the school department the acceptance and expenditure of grants or gifts of funds from the federal government, charitable foundations, private corporations, individuals, or from the commonwealth, its counties, municipalities or an agency thereof, the provisions of Section 53A of Chapter 44 of the General Laws notwithstanding.

“(b) The superintendent of schools shall provide to the school committee, the city auditor and the office of budget management of the City of Boston a report, detailing the source, purpose and balance on hand of all funds received or expended pursuant to subsection (a), quarterly.”

Section 2 of Chapter 231 of the Acts of 1906, as

amended by Chapter 613 of the Acts of 1987, states that “subject to appropriations therefore, the superintendent of schools shall have the exclusive authority to make on behalf of the school committee contracts, or amendments to contracts, for the purchase or rental of equipment, materials, goods or supplies, leases of property, alterations and repairs of school property, and for professional or other services, with the exception of collective bargaining agreements and contracts for the transportation of students. All school department contracts or amendments to contracts shall otherwise conform to the requirements of the city charter of the city of Boston.

“(b) With respect to all contracts, agreements or amendments thereto made or entered into by the school department, the superintendent shall be responsible for establishing procedures for auditing and monitoring the compliance of the parties with the terms and obligations of such contracts, agreements or amendments thereto.”

Charter Schools Legislation

Section 89 of Chapter 71 of the Massachusetts General laws as amended establishes guidelines for charter schools across the state. Charter Schools are established for several reasons, including encouraging development and maintenance of innovative learning programs within public education, allowing educators more flexibility in working with school committees and unions, giving parents and students greater choice in learning programs, presenting educators with opportunities and tools to establish innovative and alternative educational programs, fostering performance-based educational programs, developing models for other schools to follow and providing students with opportunities to specialize within academic areas.

Section 89 allows 120 charter schools. This total includes 72 commonwealth charter schools and 48 Horace Mann charter schools. A commonwealth charter school is a public school that is operated under a charter granted by the Board of Education. Commonwealth charter schools operate independently from local school committees and are managed by a separate board of trustees. Horace Mann charter schools are either public schools or programs that operate under a charter granted by the Board of Education

and approved by the local school committee and the local bargaining agent. In any fiscal year, no public school district's total charter school tuition payment to the commonwealth charter schools shall exceed 9% of its net school spending.

Beginning in FY99, the state absorbed 100 percent of first-year tuition costs for new commonwealth charter students. The following year the state absorbs 60% and the next year 40%. In the student's fourth year the local school district will assume 100 percent of the tuition cost.

The trustees for the Horace Mann charter schools shall annually submit a budget request to the superintendent and school committees for the following year. In response to its budget request, the Horace Mann charter school shall not receive less funding than it would under the district's budgetary allocation rules.

Reserve Fund

Section 7 of Chapter 701 of the Acts of 1986, requires the creation of an operating budget Reserve Fund to deal with "extraordinary and unforeseen expenditures." This section requires that "prior to the date when the tax rate for a fiscal year is fixed, [the City must] include in the appropriations for such a fiscal year as a segregated reserve fund a sum not less than 2 1/2 percent of the preceding year's appropriations for city and county departments, excepting the school department...

"The mayor, with the approval of the city council, may make direct drafts or transfers against this fund before the close of the fiscal year, provided that no such drafts or transfers be made before June first in any fiscal year.

"Each transfer recommended by the mayor to the city council shall be accompanied by written documentation detailing the amount of such transfers and an explanation for the transfer..."

The section also notes "the school department shall establish a segregated reserve fund of not less than one percent of the current fiscal year's appropriations to the school department within ten days of final approval of such appropriations. No expenditures may be made from this [school department reserve] fund before May first in any fiscal year...and shall require the approval of the mayor and the city council."

Budget Allotment Process and Reallocations

Section 18 of Chapter 190 of the Acts of 1982, as amended by Sections 8 and 9 of Chapter 701 of the Acts of 1986, requires that "on or before August first of each year, or within ten days of the annual appropriation order for such fiscal year, whichever shall occur later, the city or county officials in charge of departments or agencies, including...the school department, shall submit to the city auditor, with a copy to the city clerk...an allotment schedule of the appropriations of all personnel categories included in said budget, indicating the amounts to be expended by the department or agency for such purposes during each of the fiscal quarters of said fiscal year."

The school department's allotment may not be greater than 20 percent for the first quarter and 30 percent in each of the remaining three quarters. Allotments for city and county agencies may not exceed 30 percent for first or second quarters or be less than 21 percent for the third and fourth quarters.

In addition, "whenever the city auditor determines that any department or agency, including the school department, will exhaust or has exhausted its quarterly allotment and any amounts unexpended in previous quarters, he shall give notice in writing to such effect to the department head, the mayor and the city clerk, who shall transmit the same to city council.

"The mayor, within seven days after receiving such notice, shall determine whether to waive or enforce such allotment. If the allotment...is waived or not enforced...the department or agency head shall reduce the subsequent quarter's allotments appropriately and the director of administrative services, within seven days, shall state in writing to the city council and the city clerk what reductions in each subsequent quarter's allotment will be taken or what reallocations or transfers will be made to support the spending level in each subsequent quarter's allotment. If the allotment for such quarter is enforced and not waived, thereafter the department shall terminate all personnel expenses for the remainder of such quarter..."

"No personal expenses earned or accrued, within any department, shall be charged to or paid from such department's or agency's allotment of a

subsequent quarter without approval by the mayor, except for subsequently determined retroactive compensation adjustments.

“Approval of a payroll for payment of wages, or salaries or other personnel expenses which would result in an expenditure in excess of the allotment shall be a violation by the department or agency head...

“To insure that the overall city and county spending program remains in balance, the mayor may reallocate no more than three million dollars of non-personnel appropriations other than school appropriations during a fiscal year to other departmental purposes provided that in no department from which appropriations have been reallocated in accordance with this section shall any transfers be made...from personal services to non-personal services, except with the approval of a two-thirds vote of city council, if such transfer would require the layoff of departmental personnel, who have been permanently appointed to a position in the department...

“No reallocation may be made under this section after April fifteenth in any fiscal year.

“A list of each reallocation made by the mayor shall be transmitted to the city council and the city clerk by the city auditor by April thirtieth in any fiscal year. In each case, the report shall state the accounts from which the transferred funds were taken and the accounts to which the funds were reallocated, and the reasons therefore.”

Transfer of Appropriations

Section 23 of Chapter 190 of the Acts of 1982, as amended by Section 3 of Chapter 701 of the Acts of 1986, states that “after an appropriation of money has been made...no transfer of any part of the money thus appropriated, between such department or office and another department or office, shall be made, except in accordance with and after the written recommendation of the mayor to the city council, approved by a vote of two-thirds of all the members of the city council, provided that the city auditor, with the approval in each instance of the mayor, may make transfers, other than for personal services, from any item to any other item within the appropriations for a department, division of a department or county office.

“After the close of the fiscal year, the city auditor may, with the approval of the mayor in each instance, apply any income, taxes and funds not disposed of and make transfers from any appropriation to any other appropriation for the purpose only of closing the accounts of such fiscal year, provided further that the city auditor within seventy days after the close of the fiscal year, shall transmit to city council and the city clerk a report listing what income, taxes, or funds were applied and what transfers were made and the reasons therefore.”

Penalty for Overspending Budget

Section 17 of Chapter 190 of the Acts of 1982 (Tregor) states that “no official of the city or county except in the case of extreme emergency involving the health and safety of the people or their property, shall expend intentionally in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the city in any contract for the future payment of money in excess of such appropriations...

“Any official who violates the provisions of this section shall be personally liable to the city for any amounts expended intentionally in excess of an appropriation to the extent the city does not recover such amounts from the person to whom paid...”

Appropriation Restrictions

Section 10 of Chapter 701 of the Acts of 1986, requires that “the mayor and city council shall appropriate for the hospitalization and insurance account an amount not less than the average of the past three years actual expenditures from those accounts. The city auditor shall certify, in writing to the board of assessors, that adequate funds are provided in the operating budget for existing collective bargaining contracts...”

Restrictions on the Use of Proceeds from the Disposition Of Surplus Property - Section 24 of Chapter 190 of the Acts of 1982, as amended by Section 4 of Chapter 701 of the Acts of 1986, requires that “proceeds from the disposition of any surplus property shall be deposited in a separate fund which shall be known as the Surplus Property Disposition Fund, and shall be used only as follows: (1) the amount equivalent to the debt incurred, and interest paid or payable thereon, as

a result of the acquisition or improvement from time to time of the property shall be used only for purposes for which the city is authorized to incur debt for a period of ten years or more and (2) all proceeds in excess of such amount shall be credited to the capital fund of the city unless the city council by a majority vote determines with the approval of the mayor to credit such proceeds to the general fund of the city.”

Duties of Supervisor of Budgets

City of Boston Code Ordinance 5, section 5 states that “the supervisor of budgets shall, under the direction of the mayor and in consultation with the director of administrative services, prepare in segregated form the annual and all supplementary budgets...and shall report to the mayor on all subsequent revisions of the items in any budget...

“The supervisor of budgets shall also prepare...all transfer orders...

“The supervisor of budgets shall further prepare...the form of estimate sheets to be used by each officer, board and department, and each division of a department for which the city appropriates money, and the form of monthly report of such officer, board and department, and each division thereof, showing expenditures to date of all appropriations by them.

“The supervisor of budgets shall, in addition, have the powers and perform the duties conferred or imposed on the budget commissioner by any statute other than Section 56 of Chapter 35 of the General Laws.”

Convention Center Legislation

Chapter 152 of the Acts of 1997, the convention center legislation, was enacted on November 19, 1997. This legislation authorizes the development and construction of a convention center in Boston as well as borrowing for other convention center-related projects in Worcester, Springfield, Pittsfield, Fitchburg, Greater New Bedford, and Holyoke and for conducting studies of other areas of the state.

Under this legislation and through the joint efforts of the Boston Redevelopment Authority (BRA) and Massachusetts Convention Center Authority (MCCA), the new Boston Convention and Exhibition Center is being developed and constructed on a 60-acre site in South Boston.

The facility, which is expected to open in June 2004, will include over 500,000 square feet of contiguous exhibition space in addition to ballrooms, meeting rooms, banquet, and lecture halls.

The enabling law authorizes the Commonwealth to borrow up to \$609.4 million for facility construction and the City to borrow up to \$182.8 million for acquisition and preparation of the land. The state funds its share of expenses through several sources, including a convention center financing fee from hotel rooms; meals, beverage and sales taxes; tourist, sightseeing and entertainment vehicle surcharges, and vehicle rental surcharges (\$10 each, of which \$1 is earmarked for Boston).

Boston’s expenses are funded through a Room Occupancy Excise Fund encompassing four major revenues. First, the City earmarks for the fund the four-percent excise from new hotels that opened on or after July 1, 1997. Second, the City receives a \$1 surcharge for vehicle rentals as part of the state surcharge. Next, the City of Boston has received a reimbursement from the state for its net interest expense through June 30, 2003. Also, the City sold 260 new hackney licenses. The taxi medallions sold for an average of approximately \$152,000 each and raised an estimated \$39.5 million.

With the construction of the new convention center, Boston is poised to become a major competitor for international and national convention and exhibition business, thereby stimulating economic development and investment. With new attractions, tourism-related businesses will expand, thereby encouraging secondary spending for transportation services, recreation, and entertainment and at hotels, restaurants, and retail stores. The ultimate economic benefit will be new jobs, new businesses, and new investment opportunities, resulting in an improved quality of life for Boston residents.

The Boston Jobs and Living Wage Ordinance

Chapter 3 of the Ordinances of 1998, amending Chapter 5 of the Ordinances of 1997, was enacted on July 1, 1998. This ordinance established guidelines requiring companies and organizations with city service contracts of \$100,000 or more to pay all workers a living wage of at least \$9.11 an

hour. The Living Wage Ordinance has since been amended by Chapter 8 of the Ordinances of 2001, to require companies and organizations with city service contracts of \$50,000 upon enactment and \$25,000 as of July 1, 2002 to pay no less than \$10.25 an hour. That hourly wage is to be adjusted every July 1 (beginning July 1, 2002) according to the formula contained in the ordinance. The adjusted living wage as of July 1, 2003 is \$11.29.

The intent of this ordinance is to balance a decent wage for the working poor with economic development in the business community. By raising the wage level, it is expected that consumer income will increase, poverty levels will decrease, neighborhood businesses will be invigorated, and the need for taxpayer-funded social programs will decline. The Living Wage level, higher than the federal minimum wage, is designed to meet the needs of a family of four to live at or above the federal poverty level.

This ordinance applies to for-profit and non-profit companies with 25 employees or more. Exemptions to this ordinance include school to work programs, summer youth programs, seasonal or part-time work, or where compliance would result in extreme hardship.

Changes in Contracting Procedures

Chapter 262 of the Acts of 1998 establishes that any department, officer or board of the City of Boston or Suffolk County must initiate a contract when the amount involving a request for services or purchase is \$10,000 or more. Previously, the amount requiring a contract was \$2,000. Raising the contract level reduced the amount of processed paperwork, streamlined the acquisition process, and reduced the time needed for retaining goods and services.

Civil Service Changes

Chapter 282 of the Acts of 1998 requires that the state Personnel Administrator certify current provisional employees and provisional promotees who have served in civil service positions within the City of Boston for at least six months prior to January 1, 1998, to permanent civil service status in those positions. Under this law, approximately 3,100 employees became permanent civil servants.

Pension Funding Changes

To aid municipalities dealing with property tax reduction due to Proposition 2 1/2, the state began assuming the cost for local pension COLAs as of 1981. During the FY97 budget process, the state clearly stated it would not fund local pension COLAs in subsequent years. The state, however, remains obligated to pay for local pension COLAs awarded between FY81 and FY97.

The impact of assuming the funding for COLAs granted after FY98 increased the unfunded pension liability of the State-Boston Retirement System (SBRS) by approximately \$200 million. (The unfunded pension liability is amortized and paid for over the course of a long-term funding schedule.)

There are several items that the SBRS is asked to take into consideration before it votes on an annual COLA increase. They are:

1. Whether the SBRS rate of return on assets during the previous calendar year was less than the assumed rate of return in its funding schedule;
2. Whether for a majority of the City's union members no collective bargaining increases have been awarded during the current fiscal year;
3. Whether the property tax levy in the last state-approved property tax rate has been restricted or reduced due to the net effective property tax rate hitting the property tax rate ceiling of 2.5% of total taxable value;
4. Whether the City's current fiscal year net cherry sheet aid (cherry sheet aid minus cherry sheet state assessments) has been reduced;
5. Whether the City shows a deficit in the most recent completed fiscal year for the budgetary basis operating budget.

The COLA is set each year at the CPI or an amount up to, but not greater than 3% on the first \$12,000 of a retiree's annual payment. Locally funded COLA's were approved by the SBRS board for each year from fiscal 1999 through fiscal 2004.

Boston Public Health Act of 1995

The goal of the Boston Public Health Act of 1995 (Chapter 147) is to establish a new, comprehensive health care system to meet the challenges of a rapidly changing health care environment and ensure continuous delivery of high-quality health care services to residents. The new health care network of public and private partnerships unites outreach, health education, prevention, outpatient and inpatient services, home care, emergency care, specialty care, aftercare, rehabilitation, and long-term care services into an integrated continuum of care. The overall goals are promoting health and well being, meeting medical and public health needs, and educating future physicians and caregivers. The system also addresses cultural and linguistic diversity to meet the health needs of persons of all races, languages, cultures, and economic classes.

Chapter 147 abolished the Department of Health & Hospitals and established the Boston Public Health Commission (BPHC) in its place. With City Council approval, the legislation allowed the City to merge or consolidate the operations and assets of the hospitals with the Boston University Medical Center Hospital per the following guidelines:

- “(1) ensuring the availability of a full range of primary through tertiary medical programs, in addition to a commitment to public health, preventive, emergency and long term rehabilitative care programs;
- (2) serving both urban and suburban communities in a culturally and linguistically competent manner that strives to meet the current and changing health care needs of people of all races, languages, cultures and economic classes;
- (3) providing a high degree of medical, nursing, management and technical competency and accountability;
- (4) enhancing its role as a major academic medical center, including support for bio-medical, public health, medical education and basic science research;
- (5) providing managed care services to the communities served by the new medical center and participating effectively and competitively in managed care plans serving the patient population; and

- (6) treating its patients, staff and the communities served with respect and dignity.”

The network links the City's new Public Health Commission with private hospitals, community health centers, the new Boston Medical Center, and community-based organizations and providers. Through this network, the commission offers a myriad of health services, including primary care, specialized services such as AIDS treatment and prevention, communicable disease control, injury prevention, substance abuse services, infant mortality prevention, and ambulance services. In addition, the commission operates the City of Boston's homeless shelter.

The budget should set forth the amount by which, if any, the projected expenditures exceed revenues and the net cost of public health services. If there is a net cost of public health services, the budget is subject to mayoral review and approval. The mayor may approve or reject and return the budget to the BPHC. If the budget is accepted, the mayor shall include the net cost of public services in the City's annual budget and may submit supplementary appropriations as needed. The BPHC must adopt its budget no later than the second Wednesday in June.

Classification of City Debt

Pursuant to the Bond Procedure Act of 1983, all indebtedness of the City, other than certain special obligation bonds, constitutes general obligation indebtedness of the City for which its full faith and credit are pledged and for the payment of which all taxable property in the City is subject to ad valorem taxation without limit as to rate or amount. Pursuant to the 1982 Funding Loan Act and the Bond Procedure Act of 1983, general obligation bonds of the City may also be secured by a pledge of specific City revenues pursuant to covenants or other arrangements established under a trust or other security agreement. In addition, special obligation bonds of the City may be issued and be payable from and secured solely by a pledge of specific revenues derived from a revenue-producing facility of the City. Indebtedness of the City may also be classified by the nature of the City's obligation for the payment of debt service, depending on whether such debt is a direct obligation of the City or is an obligation of another governmental entity

for the payment that the City is indirectly obligated.

Direct Debt

Direct debt of the City consists principally of the City's outstanding general obligation bonds for which the City's full faith and credit are pledged and for the payment of which all taxable property in the City is subject to ad valorem taxation without limit as to rate or amount. The City's direct indebtedness does not include special obligation debt which may be secured solely by a pledge of specific revenues derived from a revenue-producing facility of the City or for which the payment of which the City's obligation is subject to annual appropriation.

Special obligation indebtedness outstanding as of April 1, 2004 are the City's Special Obligation Refunding Bonds of \$127.8 million, Boston City Hospital Issue dated August 15, 2002 issued in order to refund the City's Revenue Refunding Bonds, Boston City Hospital (FHA Insured Mortgage), Series B, dated June 1, 1993 of which \$120.4 is outstanding and the Special Obligation Bonds of \$116.9 Convention Center Loan, Act of 1997 of which \$114.8 is outstanding. For further discussion of the mechanics of the Special Obligation Refunding Bonds, please refer to the City's most recent Official Statement dated February 1, 2004 and April 1, 2004.

Secured Indebtedness

In addition to authorizing the City to secure its indebtedness with letters of credit, the Funding Loan Act of 1982, and the Bond Procedure Act of 1983, empower the City to secure any of its indebtedness issued under any general or special law by a pledge of all or any part of any revenues that the City received from or on account of the exercise of its powers. Examples include taxes (such as real property taxes), fees payable to or for the account of the City, and receipts, distributions, and reimbursements held or to be received by the City from the Commonwealth that are not restricted by law for specific purposes. Currently, the City does not have any outstanding bonds secured by such a pledge. The City, however, reserves the right in the future to issue bonds, notes or other obligations secured by various revenues of the City or by letters of credit.

Bond Procedure Act of 1983

In 1983, the City Council passed and the Mayor signed a home rule petition to the state legislature that enacted Chapter 643 of the Acts of 1983 of the Commonwealth. This act, formally entitled the City of Boston Bond and Minibond Procedure Act of 1983, is referred to as the Bond Procedure Act of 1983. Effective January 2, 1984, the legislation modified various procedural restrictions related to the City's issuance of indebtedness. Such modifications provide, among other things, more flexible schedules for repaying debt principal, the issuance of variable rate bonds, term bonds and bonds redeemable at the option of the bondholder, and authorization for the sale of bonds at a discount. The legislation also provides the City with the authority to issue bonds in an amount up to \$5 million in any one fiscal year and notes in an amount outstanding at one time of up to five percent of the prior year's property tax levy. Each bond and note is issued in a denomination less than \$5,000 (known as minibonds and mininotes). In addition, the legislation authorizes the issuance of refunding bonds and grant anticipation notes, as well as restating the investment powers of the City and the extent to which city bonds are legal investments for certain entities.

The Bond Procedure Act of 1983 also reaffirms provisions of state law, indirectly affected by Proposition 2 ½. This law requires that the City's annual tax levy must include the debt and interest charges that are not otherwise provided for as well as all general obligation indebtedness of the City regardless of the date of issue.

In addition to modifications to the procedures related to the City's general obligation indebtedness, the legislation authorizes the City to finance revenue-producing facilities with special obligation bonds payable from and secured solely by a pledge of facility revenues. Under this act, the City may also issue general obligation bonds secured by the pledge of specific city revenues and finance projects that otherwise could be financed by bonds, lease, lease-purchase or sale-leaseback agreements. The Bond Procedure Act of 1983 was amended in August 1991 to provide, among other things, for increased flexibility in establishing debt principal amortization schedules.

Authorization of Direct Debt; Debt Limits

All direct debt of the City requires the authorization of the City Council and approval of the Mayor. If the Mayor should veto a loan order passed by the City Council, the charter of the City provides that the loan order is void and may not be passed over the Mayor's veto. Authorization of bonds under a loan order of the City Council includes, unless otherwise provided in the loan order, the authorization to issue temporary notes in anticipation of such bonds. Under the Bond Procedure Act of 1983, temporary notes in anticipation of bonds, including any renewals thereof, must mature within two years of their issue dates.

The laws of the Commonwealth provide for a statutory debt limit for the City consisting of a debt limit and a double debt limit. The debt limit is 5.0 percent of the assessed valuation of taxable property in the City as last equalized by the state Department of Revenue and the double debt limit is 10.0 percent. The Equalized Valuation ("EQV") of taxable property in the City approved on March 18, 2003 for use until June 30, 2005, or until a new EQV is established by the state legislature, is \$65.75 billion. Based on the current EQV, the City's debt limit is \$3.29 billion and its double debt limit equals \$6.57 billion. The City may authorize debt up to its debt limit without state approval. The City may authorize debt over the debt limit up to the double debt limit with the approval of a state board composed of the State Treasurer and Receiver General, the State Auditor, the Attorney General and the Director of Accounts, or their designees. As of April 1, 2004, the City has outstanding debt of \$580.4 million subject to the debt limit, and authorized but unissued debt subject to the debt limit of \$401.8 million. Based on the City's current debt limit of \$3.29 billion, the City has the capacity to authorize an additional \$2.30 billion of debt as of April 1, 2004.

There are many categories of general obligation debt exempt from the general debt limit (although authorization of such debt is subject to various specific debt limits, specific dollar limitations or state approval). Among others, these exempt categories include temporary loans in anticipation of current and in anticipation of reimbursements or other governmental aid, emergency loans, loans exempted by special laws, certain school bonds, and bonds for housing and urban and industrial

development. The latter bonds are subject to special debt limits ranging from 0.5% to 10 percent of equalized valuation depending on purpose. On April 1, 2004, the City has \$280.5 million in outstanding debt exempt from the general debt limit and \$163.2 million in authorized but unissued debt exempt from the general debt limit.

Related Authorities and Agencies

In addition to direct and indirect indebtedness of the City, the City and certain agencies and commissions related to the City are authorized by law to issue obligations that are solely a debt of the agency or commission issuing the obligations or are payable solely from revenues derived from projects financed by such debt. Except as described below, such obligations are not a debt of the City.

The Boston Public Health Commission is an independent corporate and political subdivision of the Commonwealth created in June 1996 as the successor to the City's Department of Health and Hospitals (DHH). Effective July 1, 1996, all powers and functions of DHH and THH (Trustees of Health & Hospitals) were transferred to the commission. In addition, the commission assumed all assets and liabilities of the City allocable to DHH. At its inception, the Commission also assumed responsibility for paying the City an amount equal to current debt service on all outstanding general obligation bonds of the City issued for public health and hospital purposes. Such bonds were outstanding on June 30, 2003 in the aggregate principal amount of \$15.4 million. These bonds are the City's general obligations whose outstanding amount is shown on the City's debt statement. The commission has also assumed responsibility for paying the current debt service on the City's Special Obligation Refunding Bonds dated August 1, 2002 for Boston City Hospital, which were issued to refund bonds that first financed the project in 1993. Such bonds are outstanding on April 1, 2004 in the aggregate principal amount of \$120.4 million.

The Boston Water and Sewer Commission (BWSC) is an independent political and corporate subdivision of the Commonwealth created in July 1977. At its inception, BWSC assumed responsibility for the operation of the City's water and sewer systems and for paying to the City an amount equal to current debt service on all

outstanding bonds the City issued for water and sewer purposes. All debt service for such bonds has been paid. The City is not obligated on bonds issued by the Commission.

The Economic Development and Industrial Corporation of Boston (EDIC) is a political and corporate entity of the Commonwealth consisting of five members who are also appointed as members of the Boston Redevelopment Authority (BRA). EDIC has a variety of powers to assist industrial development projects in the City. EDIC is not authorized to issue debentures in excess of \$5 million secured solely by the credit and properties of EDIC and revenue bonds secured by revenues from the lease or sale of its projects. The City is also authorized to appropriate or borrow monies for EDIC development projects within certain urban renewal debt limitations.

The BRA is a public political and corporate body that combines the City's redevelopment and planning board authority with certain powers of the state Department of Community Affairs. The BRA board consists of four members appointed by the Mayor, subject to confirmation by the City Council, and one member appointed by the State Department of Community Affairs. The BRA provides the planning support for major construction and redevelopment activity in the City. Although the BRA is authorized to issue revenue bonds and notes that are not city debts, the BRA traditionally finances its projects through a combination of federal and state grants, proceeds of general obligation bonds issued by the City, and revenues from the lease or sale of land.

Major Debt Statutes and Borrowing Authority

Chapter 44, Sections 7 and 8 of the Massachusetts General Laws permits cities and towns in the Commonwealth to incur debt within and outside the statutory limits of indebtedness described previously for various municipal purposes and identifies the maximum maturity period for each purpose. The purposes include, but are not limited to, the original construction and equipping of municipal facilities, repairs and renovations to existing municipal structures, construction and/or reconstruction of water and sewer mains, improvements to parks and playgrounds, reconstruction and resurfacing of roads, roadway

and street lighting and equipment acquisitions. On July 31, 2003, the Municipal Relief Act, Chapter 46 of the Acts of 2003 passed. It amended section 7 of Chapter 44 of the General Laws so that the City would no longer be required to go to the state Emergency Finance Board for approval of debt incurred for remodeling, reconstruction or extraordinary repairs to public buildings.

The Capital Improvements Act of 1966, as amended, permits the City of Boston to issue debt outside the debt limit for various municipal purposes, including new construction and renovation of existing facilities. The legislation provides a specific limit on the total amount of debt that may be issued under the statute.

Chapter 70B of the Massachusetts General Laws provides for the issuance of general obligation debt for certain school projects approved by the State Board of Education under the School Building Assistance program. Under the program, the state reimburses a percentage project costs to the City's General Fund annually.